



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

Assembly Committee on Health and Health Care Reform

Assembly Bill 100

Testimony of Representative Jon Richards

April 1, 2009

As all of you know, I have a white board in my office with a list of guiding principals for health care reform -- reduce costs, improve coverage and access, enhance quality and promote prevention.

A recent report by Families USA gave Wisconsin a failing grade on state consumer protections in the individual health insurance market. The report cited as too long Wisconsin's current 2-year time limit on how long insurance coverage can be excluded for pre-existing conditions. For example, Wisconsin doesn't protect consumers from having claims denied because the insurance companies are digging back years into the policyholder's medical history and alleging the individual should have known about a pre-existing condition.

Assembly Bill 100, an individual health insurance reform proposal goes to the heart of improving coverage and access to care by taking meaningful steps toward the goal of making sure people get the benefits they paid for. One of the most frustrating and heart breaking aspects of the current health care landscape are the stories we hear from our constituents who have purchased health insurance, faithfully paid premiums and are denied coverage because someone in an insurance company deemed a condition or illness to be a pre-existing condition. AB100 proposes three changes that will help Wisconsin's consumers.

First, under current law an insurer may impose a pre-existing condition exclusion for any condition that may have existed at anytime during a person's lifetime that the insurer believes the person should have known existed. For instance, a person who has bouts of heartburn or indigestion may be denied coverage if subsequently diagnosed with an ulcer or other serious digestive disorder. Similarly, someone who thinks they are just feeling the affects of getting older may actually be in the early stages of arthritis and subsequently may be denied coverage because the insurance company believes the person should have known something serious was wrong or should have sought treatment. This places an undue and unrealistic burden on policy holders to self-diagnose the early onset of potentially serious medical conditions.

AB100 allows insurers to impose a pre-existing condition exclusion for up to one year for a condition for which the insured received treatment or for which treatment was recommended. This protection, known as an "objective standard", will give consumers confidence that their

insurance will continue despite the discovery of conditions that were not diagnosed prior to the issuance of the policy.

Second, AB100 restricts the use of additional underwriting for policy renewals. Under the bill, an insurer is required, at the request of the insured, to modify the benefits or deductible level of a policy or provide coverage under a comparable policy offered by the insurer without subjecting the consumer to additional underwriting.

Third, AB100 requires the Commissioner of Insurance to prescribe uniform questions and a uniform format for individual health insurance policy applications. This change will simplify application procedures for consumers and also give assurance that policy premiums and qualifications were based on uniform information.

I want to thank Commissioner Dilweg and his staff and Senator Kathleen Vinhout for working with me on this important consumer protection legislation.



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

Testimony of Deputy Commissioner Sean Dilweg To the Assembly Committee on Health and Healthcare Reform Assembly Bill 100 April 1, 2009

Chairman Richards and Members of the Committee:

Thank you for the opportunity to testify in support of Assembly Bill 100, relating to preexisting condition exclusions, modifications at renewal and establishing a standard application for individual health benefit plans.

The Office of the Commissioner of Insurance (OCI) received 343 complaints relating to preexisting conditions and rescissions from January 2006 through March 2009. As a result of OCI's experience with such complaints, as well as those in several other state insurance departments, the National Association of Insurance Commissioners continues work on a national survey regarding individual health insurer business practices with respect to rescission and exclusion decisions. The goal is to better understand current practice and its impact on consumers.

One evident problem is the practice of "post claims underwriting," or retroactive denial of coverage after a claim is filed. Modifications proposed in AB 100 will help to decrease this practice and encourage individual health insurers to perform thorough medical underwriting prior to issuing a policy. Such proposed modifications also increase access to medical treatment that might not be available to insureds under current law due to the generous definition of preexisting condition applied to individual coverage, in addition to the 2 year exclusion period. These modifications include:

- Decreasing the time in which an insurer may impose a preexisting condition exclusion from 2 years to 1 year. According to the Kaiser Family Foundation, 23 states use 1 year. Current state law allows for a 1 year preexisting condition period for group health insurance plans.
- Limiting to 1 year the timeframe with respect to how far back into an individual's medical history an insurer can look for the purpose of determining that a condition is preexisting. There is currently no limit for such a "look back." 26 states use a 1 year or less look back period.
- Requiring that a preexisting condition, at most, include a condition for which medical advice was given or treatment recommended. This is referred to as an "objective standard." Current law uses a "prudent person" standard which

relies on conditions that were never diagnosed, but rather symptoms present that a prudent person would have sought medical advice or treatment.

Assembly Bill 100 also allows individuals, at the time of policy renewal, to receive coverage under a different but comparable policy offered by the insurer. The insurer cannot apply additional underwriting for the new coverage. This allows an insured more flexibility to obtain coverage that meets their medical and financial needs.

Finally, AB 100 directs OCI to craft a uniform application for individual health insurance policies. Such an application form will ease the application process for consumers, in particular those applying for coverage from more than one insurer. I am committed to developing such an application with interested parties at the table providing input into the details of the final document. I think it is worth noting that there is currently a small employer uniform employee application for group health insurance.

In summary, AB 100 will increase consumer protection and confidence that coverage will be available when it is needed most. It also will bring Wisconsin law pertaining to individual health insurance coverage in line with other states and current Wisconsin statutory requirements with respect to group health insurance coverage.

Thank you for the opportunity to testify in support of AB 100 today. I welcome any questions.

Statement to Wisconsin's Assembly Health Committee April 1, 2009

Shortly after my employment termination in February 2004, doctors advised that I undergo cervical fusion surgery ASAP. Though I believed the condition to be work related, a workers' comp claim was denied before I managed to file a claim. Already busy scheduling and recovering from medical procedures, I was faced with the complications of prosecuting a work comp case to prove the injury was work related.

With the advice of my doctor and neurosurgeon, I decided the best option was to file a claim with my health insurance provider. That claim was ultimately denied payment, though the surgery was deemed necessary, properly pre-certified and approved by the provider. As Wisconsin's Commissioner of Insurance was powerless to act on my complaint due to the coverage being on a self-funding basis, and the source of self-funding was bankrupt and ceasing operations in two weeks, I was forced to pursue immediate legal action to obtain payment for a procedure covered and approved by my health insurance.

With the need to obtain continued health coverage, I paid COBRA continuation for four months, during which time my applications for new insurance coverage were denied by two insurance companies. Though I qualified for HIRSP coverage at a premium rate similar to the COBRA continuation, the high deductible and pre-existing condition exclusions made HIRSP coverage unacceptable to me. The proposed legislation would not have changed that.

Eventually I was forced by financial circumstances to accept a private individual policy with multiple pre-existing exclusions and a high deductible, but lower cost than COBRA or HIRSP. Exclusions for my upper spine, hearing and feet remained for over four years. Assembly Bill 100 would have helped limit the duration for one exclusion and eliminated the other exclusions entirely, but it's also possible the insurer might have declined to accept my application because of the terms imposed by this legislation, leaving me without affordable insurance.

After settling these matters and starting a new job, a temporary job with no insurance benefits, I received notice that the claim for the surgery for which I had fought for payment was again being disputed, this time by a specialized legal firm hired by the insurance company to recover benefits already paid, on behalf of a company that no longer existed. Though it incurred further legal expense, my attorney's forceful response was, fortunately, the last I have heard of this matter.

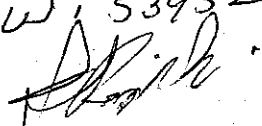
This process covered the span of ten months. Though it cost me hundreds of dollars to get only what I deserved from insurance coverage, my sympathies lie with the many thousands of less tenacious Americans who are regularly victimized by insurance companies which spend overwhelming resources on denying coverage, excluding pre-existing conditions, and denying payments for legitimately covered medical expenses after having systematically collected the ever-rising premiums for years, and even decades.

I have also personally experienced denial of chiropractic coverage and denial of complaint process as a result of the inability of the Wisconsin Commissioner of Insurance to represent the interests of Wisconsin citizens who are covered by insurance which is self-funded. ERISA assigns jurisdiction of self-funded plans to the U.S. Department of Labor. I must question the efficacy of these new bills in consideration that jurisdictional priorities may render their terms moot for many Wisconsinites with employer sponsored group coverage.

I applaud any progress, and these bills are somewhat beneficial, but first-aid on health insurance regulation cannot effectively address the profound systematic problems in our health care. Plain and simple, for-profit health insurance is a burden on the cost and hindrance to the accessibility of health care. Problems and inequities will persist until we base our actions on that reality.

Joseph Rogozinski
Oxford, Wisconsin

N4659 3rd Avenue
Oxford, WI 53952





6117 Monona Drive • Suite 1 • Madison, Wisconsin 53716-3995 • (608) 221-0383 • FAX (608) 221-2788
info@wisconsinnurses.org • www.wisconsinnurses.org

TO: Representative Jon Richards and Members of the Assembly Committee on Health and Healthcare Reform

FROM: Gina Dennik-Champion, MSN, RN, MSHA
Executive Director, Wisconsin Nurses Association

DATE: April 1, 2009

RE: Support of AB 100 – Relating to Preexisting Condition Exclusions, Modifications at Renewal, And Establishing a Standard Application for Individual Health Benefit Plans and Granting Rule-Making Authority

Good afternoon Chairperson Richards and members of the Health and Healthcare Reform Committee. My name is Gina Dennik-Champion, I am a registered nurse and I am here today representing the Wisconsin Nurses Association (WNA). WNA is the professional association for all RNs in Wisconsin. As a professional nursing association, we collectively and collaboratively advocate for access to comprehensive quality health care services for all people. This in turn provides the person an increased opportunity for maintaining health and sustaining a life of quality.

Thank you for allowing me the opportunity to share WNA's support of AB 100 and the companion bill SB 71 – Relating to Preexisting Condition Exclusions, Modifications at Renewal, and Establishing a Standard Application for Individual Health Benefit Plans and Granting Rule-Making Authority. WNA extends appreciation to you, Representative Richards, for sponsoring this legislation and the members of this committee who are supporting this legislation.

For background purposes, WNA would like to share that we are members of a health care reform discussion group that was facilitated by Senator Kathleen Vinehout and Representative Donna Seidel. This group consists of professional health care practitioners, health care providers, insurance companies, and other advocacy groups. The group discussed the barriers that exist for consumers in obtaining health insurance and the changes needed so that access to health care could be achieved. WNA is very appreciative of Senator Vinehout and Representative Seidel in bringing this group together, as we now have an opportunity for removing some of these barriers.

WNA has held a long-standing interest in health care reform. WNA, along with other members of the Wisconsin Nursing Coalition, developed a document in 1999 which has recently been revised that describes professional nursing's opinions and recommendations for health care reform. This document, *The Wisconsin Community of Nursing Agenda for Healthcare Reform* (January 2009), describes the need for a reformed health care system. WNA, as part of the nursing community, remains optimistic that true health care reform will occur, as we cannot as a society continue to have:

- 350,000 persons go without care or enter the system sicker, at higher cost entry points;
- Limited access to health care in rural communities and dense urban areas;
- Decreased personal incomes as more out-of-pocket health care costs rise;
- A rapidly growing aging and culturally diverse population;
- Health disparities among underserved populations;
- Health care workforce shortages;
- Annual double digit increases in health costs;
- Decreased profits for business as health insurance costs rise;
- Gaps, fragmentation and duplication in delivery of services;
- A "system" that is complex, confusing and wasteful; and
- Environmental practices that negatively impact healthy living.

As we wait for health care reform to occur nationally and in Wisconsin, we cannot ignore the real issues that are impacting real people in the pursuit of health care coverage for all. AB 100 addresses the issues and limitations on individual health insurance by limiting the preexisting condition exclusion from two years to one year. By doing this, Wisconsin joins 23 other states with a one-year preexisting policy. In addition, AB 100 requires that a physician must previously diagnose the preexisting condition and the exclusion period for preexisting conditions cannot exceed one year. Some insurance companies now deny payment for treatments of existing diseases because the patient "should have known" about the problem earlier.

AB 100 also provides the consumer with choices at the time of policy renewal by allowing the consumer to change coverage to a comparable product currently offered by their insurer, or modify their existing coverage. These choices may include additional coverage, more limited benefits or higher deductibles. In addition, the consumer shall not be subject to any additional underwriting or any new preexisting conditions exclusion that did not apply to his or her original coverage.

Lastly, AB 100 gives the Commissioner of Insurance the authority to establish uniform insurance application with standard underwriting questions. Having standardized questions is no different than the process used for group health insurance applications. This policy supports fairness.

WNA encourages the passing of AB 100 as it addresses those instances when patients are in need of health care insurance the most. Without it we see patients using their credit cards to pay for their needed care, selling their home and valued possessions and/or declaring personal bankruptcy. Given the current economic crisis, situations like this have a high probability of increasing. People should not have to become destitute to have access to health care. Health care organizations should not have to recoup their costs on the back of a person who cannot purchase a health insurance policy because of a preexisting condition.

Thank you for providing WNA the opportunity to present our support of AB 100.